

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

YOGESH PATEL et al.,	:	CIVIL ACTION
Plaintiffs,	:	
	:	
v.	:	No. 10-1383
	:	
HAVANA BAR, RESTAURANT	:	
AND CATERING	:	
Defendant.	:	
	:	

ORDER

AND NOW, this 2nd day of December, 2011, upon consideration of Defendants' "Motion for Sanctions" (Doc. No. 23), the responses and supplements thereto, Plaintiff's "Cross-Motion for Sanctions" (Doc. No. 25), the responses and supplements thereto, after a sanctions hearing held on February 22, 2011, and for reasons stated in the accompanying Memorandum Opinion, it is hereby **ORDERED** that:

- Defendants' motion is **GRANTED** in part and **DENIED** in part, as follows:
 - Defendants' requests for the following sanctions are **GRANTED**, as follows:
 - An adverse inference instruction regarding the spoliation of the 2008 witness statements will be given at trial;
 - The following witnesses may be re-deposed at cost to Plaintiff: Mukti Patel, Anish Shah, Raman Nijhawan, Shaheen Nijhawan, and Umar Anjum. Plaintiff shall pay for the court reporter, and upon completion of the depositions, Defendants shall submit to the Court a reasonable request for attorneys' fees incurred as a result of these re-depositions;

- Defendants are awarded attorneys' fees and costs for the time and effort expended to obtain discovery regarding the 2008 witness statements and any fees or costs related to the belated production of the 2010 statements and the police report, including the sanctions hearing and motions practice before this Court.¹
- Defendants' remaining requests for sanctions are **DENIED**.
- Plaintiff's motion is **GRANTED** in part and **DENIED** in part, as follows:
 - Plaintiff's request for an adverse inference instruction regarding the spoliation of the video recording is **GRANTED**.
 - Plaintiff's remaining requests for sanctions are **DENIED**.

IT IS FURTHER ORDERED that the discovery deadlines set forth in the January 31, 2011 Stipulated Order (Doc. No. 28) are vacated. A new scheduling order is implemented as follows:

- Counsel are directed to contact Magistrate Judge L. Felipe Restrepo's chambers on or before **December 19, 2011** to schedule a settlement conference.
- All fact discovery shall be completed by **January 16, 2012**.
- Plaintiffs shall produce their expert reports by **February 13, 2012**. Defendants shall produce their expert reports by **March 5, 2012**. Plaintiff's expert witness

¹ We note that Defendants have submitted an itemization of fees detailing their efforts, which totals \$20,816.00. While the fees and times indicated by Defendants appear to be reasonable, we are unprepared to grant Defendants' request until Plaintiff has an opportunity to review the billing statement. Therefore, within 10 days of this Order, Defendants are directed to produce to Plaintiff their itemization of fees, redacting any information they deem to be privileged. Within 10 days of receipt of Defendants' fees, Plaintiff shall advise the Court of any objections, and, if necessary, a hearing will be scheduled.

rebuttal reports (if necessary) shall be produced by **March 19, 2012**. All expert discovery, including all depositions of expert witnesses, shall be completed by **April 9, 2012**.

- Any party expecting to offer opinion testimony from lay witnesses pursuant to Federal Rule of Evidence 701 with respect to the issues of liability and/or damages shall, within the time required for the submission of expert discovery set forth above, serve opposing parties with concise details and/or documents covering the lay opinions of the Rule 701 witnesses, including the identity of each witness offering the lay opinion, the substance and the basis for each opinion.
- All motions for summary judgment and *Daubert* motions shall be filed no later than **April 30, 2012**.
- Responses to motions for summary judgment and *Daubert* motions, if any, shall be filed no later than **May 28, 2012**.
- All further deadlines will be set pending the outcome of dispositive motions.

BY THE COURT:

/s/ **Mitchell S. Goldberg**

MITCHELL S. GOLDBERG, J.